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 JPMorgan Chase Bank, N.A., individually
 9 and as an acquirer of certain assets and liabilities of
 Washington Mutual Bank, FA from the FDIC,
 10 acting as receiver, and California Reconveyance
 11 Company

12 UNITED STATES DISTRICT COURT
 13 DISTRICT OF NEVADA

15 HANH NGUYEN,
 16
 Plaintiff,

18 v.

19 WASHINGTON MUTUAL, BANK N.A.;
 JPMORGAN CHASE BANK, N.A.;
 20 CALIFORNIA RECONVEYANCE
 COMPANY; and DOE individuals 1 to 100,
 21 inclusive; and ROE corporations 1 to 30,
 22 inclusive,

23 Defendants.

) CASE NO. 2:11-cv-01799-LRH-RJJ

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) DEFENDANTS' OPPOSITION TO
) PLAINTIFF'S REQUEST TO EXTEND
) TIME TO FILE AMENDED
) COMPLAINT (DOCKET NO. 29)

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 25 Defendants JPMorgan Chase Bank, N.A., individually and as an acquirer of certain assets
 26 and liabilities of Washington Mutual Bank, F.A. from the Federal Deposit Insurance Corporation,
 27 acting as receiver, and California Reconveyance Company (collectively, "Defendants"), by and
 28 through their counsel, Smith Larsen & Wixom, hereby file their opposition (the "Opposition") to

1 the Request to Extend Time to File Amended Complaint (the "Motion") filed by Plaintiff Hanh
2 Nguyen ("Plaintiff").

3 This Opposition is supported by the following Memorandum of Points and Authorities, the
4 record herein, and any argument the Court may consider at a hearing hereon.
5

6 MEMORANDUM OF POINTS AND AUTHORITIES

7 **I. ARGUMENT**

8 While the title of Plaintiff's Motion suggests that she is merely seeking additional time to
9 file the Second Amended Complaint, a closer look at the Motion reveals that what Plaintiff is
10 really seeking is an indeterminate amount of time to consider filing a completely new amended
11 pleading, for which leave has not been granted. (*See* Motion, p. 2; *see also* Order dated
12 November 28, 2012.) To the extent Plaintiff is asking the Court to allow her to file yet another
13 amended complaint, Defendants strenuously oppose any such request. First, pursuant to Local
14 Rule 15-1(a), any request to file an amended pleading must be accompanied by a copy of the
15 proposed amended pleading. Because Plaintiff has failed to attach any proposed amended
16 complaint to her Motion, any request therein to further amend the operative complaint in this
17 matter is procedurally improper, and should be denied. Moreover, her failure to submit a
18 proposed amended complaint has prejudiced the Defendants, as they do not have an opportunity to
19 contest the filing of the amended complaint on the basis of, for example, futility or bad faith.
20

21
22 Second, this attempt to submit yet another amended complaint constitutes the fourth time
23 that Plaintiff has sought leave to amend the complaint since this action was filed over a year ago.
24 (*See* Docket Nos. 10, 16, 18.) Defendants should not be forced to wait patiently while Plaintiff
25 tries to decide which claims she intends to assert against them. It is well past time for this case to
26 proceed past the initial pleading stage, as it appears Plaintiff is filing amended pleading after
27 amended pleading merely as a delay tactic to avoid the eventual motion to dismiss her
28

1 unsustainable claims.

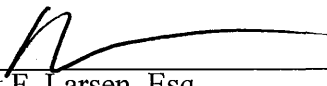
2 Finally, Plaintiff's request to amend should be denied in any event because it is
3 unnecessary to amend the pleading to "apply and include" the *Edelstein* case, as Plaintiff
4 apparently seeks to do here. (See Motion, p. 2.) Even if *Edelstein* applied here, which
5 Defendants specifically deny,¹ Plaintiff has already asserted a claim for wrongful foreclosure in
6 her pending Second Amended Complaint. (See Docket No. 18.) Thus, any argument Plaintiff
7 may wish to present as to any alleged requirement *Edelstein* places on a foreclosing bank (see
8 Motion, p. 1) may be addressed within the context of that claim.

9 II. CONCLUSION

10 In short, for all of the foregoing reasons, Defendants strenuously oppose any attempt by
11 Plaintiff to file a complaint which differs from the proposed amended complaint previously
12 submitted by Plaintiff on July 9, 2012.

13 DATED this 11 day of December, 2012.

14 SMITH LARSEN & WIXOM

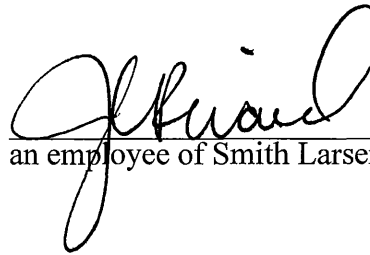
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28 ¹ *Edelstein v. Bank of New York Mellon*, 128 Nev. Adv. Op. 48 (2012), relates to the requirements imposed on a lender within the context of Nevada's Foreclosure Mediation Program ("FMP"). Because Plaintiff has not alleged that she ever participated in the FMP, or brought a petition for judicial review of any foreclosure mediation, the *Edelstein* case is wholly irrelevant to this proceeding.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11 day of December, 2012, a true copy of the foregoing **Defendants' Opposition to Plaintiff's Request to Extend Time to File Amended Complaint (Docket No. 29)** was filed electronically via the court's CM/ECF system and served by mail, postage prepaid, to the following:

Hanh Nguyen
2131 E. Camero Ave.
Las Vegas, NV 89123
Plaintiff in Pro Per



an employee of Smith Larsen & Wixom

SMITH LARSEN & WIXOM

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